

## Update: Traffic Benchbook— Revised Edition, Volume 2

### Part II—Felony Traffic Offenses

#### CHAPTER 7

#### Felony Offenses in the Michigan Vehicle Code

##### 7.4 Failing to Stop at Signal of Police Officer (“Fleeing and Eluding”)

###### E. Issues

Insert the following case summary on page 7-11 immediately before subsection (F):

Whether sufficient evidence exists to bind over a defendant for fleeing and eluding depends on “the type of signal given and the context in which it occurs[.]” *People v Green*, \_\_\_ Mich App \_\_\_, \_\_\_ (2004). In *Green*, the defendant moved to quash the information against him for fleeing and eluding on the grounds that the police officer and the police vehicle failed to satisfy the statutory requirement that both the vehicle and the officer be “plainly or clearly marked” at the time of the incident. *Green, supra*, \_\_\_ Mich App at \_\_\_. The trial court granted the defendant’s motion because the police officer who ordered the defendant to stop “was not in or near his police vehicle at the time defendant left the area.” *Green, supra*, \_\_\_ Mich App at \_\_\_.

The Court of Appeals reversed the trial court’s ruling and explained that the plain language of the fleeing and eluding statute requires a driver to stop when given a visual or audible signal by a police officer. *Green, supra*, \_\_\_ Mich App at \_\_\_. The officer’s signal may be given by hand, voice, emergency light, or siren, but the Court emphasized that MCL 750.479a “does not require that this signal to the driver of a motor vehicle be given *from within* the officer’s officially identified police vehicle.” *Green, supra*, \_\_\_ Mich App at \_\_\_ (emphasis in original). The Court further explained that the “fair and natural import” of the statutory language indicates that if the signal to stop is given by an officer away from that officer’s vehicle, the statute requires that

the officer be in uniform. *Green, supra*, \_\_\_\_ Mich App at \_\_\_\_\_. Similarly, “if the signal occurs by emergency light or siren, that signal must come from an officially identified police vehicle in order to hold a driver accountable for the offense of fleeing and eluding.” *Green, supra*, \_\_\_\_ Mich App at \_\_\_\_\_.